City of Lafayette Staff Report

For: City Council

By: Niroop K. Srivatsa

Date Written: August 7, 2009

Meeting Date: August 10, 2009

Subject: Request by David Bowie for Reconsideration of Special Assessment/Recovery of Costs - Administrative Citation Issued for Multiple CCCBID and LMC Violations (addition to a commercial building without permits) at 284~286 Lafayette Circle (APN 243-160-012); Herbert R. Monroe Trust, Property Owner.

Background

On July 27th, the City Council approved staff's recommendation to file a special assessment of $10,550 against the property at 284-286 Lafayette Circle for multiple Building Code and Municipal Code violations. On August 5th, David Bowie, attorney for the property owner filed a letter requesting Council's waiver of this assessment. Mr. Bowie states in his letter that the property owner has decided to remove the addition that has been built without permits and therefore the special assessment should not be imposed on the property. Staff is bringing this matter to the Council on the August 10th agenda because it intends to file the assessment with the County next week in order to get it on this year's tax rolls.

Reconsideration Request: Step A

The first step in this code enforcement matter is to determine whether or not the Municipal Code permits reconsideration after the City Council has taken action and staff and the City Attorney do not believe that this request for reconsideration can be entertained. Title 6 of the Municipal Code (Planner and Zoning) which sets out a procedure for reconsideration does not apply in this case and Title 8, Chapter 21 (Code Enforcement) does not provide for reconsideration at this stage of the code enforcement process. Additionally, the policy adopted by the City Council in Resolution 2007-49 (attached) requires that a request for reconsideration be made at the same meeting in which an action was taken. Therefore as the first step, the Council must decide whether or not to entertain this request for reconsideration.

The property owner had many opportunities to request review of his case during the abatement process including the right to appeal the Administrative Citation and failed to do so. Additionally, he could have informed the Council of his intent to destroy the building during the last hearing. Staff recommends that the request for reconsideration be denied.

Staff recommendation: Deny the request for reconsideration.

7B

Reconsideration Request: Step B

If the Council decides to consider the matter, staff recommends that the request to waive the special assessment be denied. Code enforcement action to abate the violation began in February 2007 when a Notice to Comply was issued. Since then, a Notice of Violation was recorded in April 2007, a Notice of Intent to Issue Administrative Citation was sent to Mr. Monroe in June 2008, an Administrative Citation was issued in September 2008 and finally a Notice and Demand for Payment was issued in October 2008. As previously stated, the property owner had numerous opportunities to request review of his case during the abatement process including the right to appeal the Administrative Citation and failed to do so.

Staff recommendation: Deny the request to waive the assessment.

Attachments

1. Letter from David Bowie dated and received August 5, 2009
2. Staff report w/attachments from the July 27th meeting
3. Council resolution 2007-49

RECEIVED
AUG 5 2009
CITY OF LAFAYETTE

LAW OFFICE OF DAVID J. BOWIE
Attorney at Law
2255 CONTRA COSTA BLVD., SUITE 305
PLEASANT HILL, CA 94523

DAVID J. BOWIE

Telephone (925) 939-5300
Facsimile (925) 609-9670
Dave@bblandlaw.com

August 5, 2009

Steve Falk, City Manager
City of Lafayette
3685 Mt. Diablo Blvd, Suite 120
Lafayette, CA 94549

Re: 284-286 Lafayette Circle, APN 185-103-017
Ref: RF 07-00138

Dear Steve:

As you know, I represent Dr. Herbert Monroe, the owner of the above real property. Mr. Monroe was cited by the City for failure to obtain a Building Permit related to an addition to his building at 284-286 Lafayette Circle. Quite recently, the City Council imposed a $10,000 lien on Mr. Monroe's property related to the subject citation.

As City records should attest, Dr. Monroe filed an application with the Planning Department for a variance. Unfortunately, planning approval for a variance was required before the issue of building code compliance might be addressed. The City's citation failed to acknowledge that basic fact. Dr. Monroe was prepared to bring his property into compliance; he could neither satisfy the building permit issued without planning approval nor could he demolish the addition for which a permit was required if his intent was to satisfy retroactive requirements for issuance of a building permit. In fairness, it seems to me that the penalty should not have been imposed under all of these circumstances.

Dr. Monroe has involved architects and engineers in the study of his property. It appears that the continued maintenance of the building addition for which the citation was issued is prohibitive at this point. Dr. Monroe now consequently plans to demolish the addition in order to restore the building to pre-existing status. Dr. Monroe will request both a demolition permit and the termination of the current application for variance pending with planning. Obviously, he would concurrently ask that the fees paid be refunded to him.

My purpose in writing to you is to request reconsideration of the sanction imposed against Dr. Monroe by the City Council arising from and related to this matter. While Dr.

Monroe and I both understand that permits should have been obtained before the construction of an addition occurred, the circumstances, including demolition of the addition, constitute a sufficient penalty in and of themselves. I do not believe there is any additional purpose served by the penalty the City has imposed. I would ask that this matter be considered by your office and placed before the Council for its reconsideration as appropriate.

Thank you for your courtesy and cooperation.

Very truly yours,

David J. Bowie

Cc: Dr. Herbert Monroe

APPROVED
LAFAYETTE CITY COUNCIL
J Robbins 7.27.09
CITY CLERK DATE

City of Lafayette Staff Report

For: City Council

By: Mark Robbins, Code Enforcement Officer

Date Written: July 16, 2009

Meeting Date: July 27, 2009

Subject: Special Assessment/Recovery of Costs - Administrative Citation Issued for Multiple CCCBID and LMC Violations (addition to a commercial building without permits) at 284~286 Lafayette Circle (APN 243-160-012); Herbert R. Monroe Trust, Property Owner.

Background

Since February of 2007, Contra Costa County Building Inspection Department (BID) and City staff have been pursuing activities to abate code violations at 284~286 Lafayette Circle. It was determined that the property owner, the Herbert R. Monroe Trust, was in violation of building codes pertaining to construction without required permits or approvals (Building Code Title 3 §3-3, §3-303), municipal codes pertaining to Planning Department approvals required (LMC Title 6), and substandard compliance with housing, health, and/or building codes (LMC Title 8 §8-2105). Mr. Monroe was informed of these violations via a Notice to Comply (Attachment 2) on February 15, 2007 and was directed to take corrective actions within the prescribed fifteen (15) business day time frame.[1] Corrective actions were not taken within the specified time frame.

On April 11, 2008 A Notice of Violation (Attachment 3) was recorded against the property by CCCBID staff.

On June 27, 2008 BID staff issued a Notice of Intent to Issue Administrative Citation (Attachment 4) pursuant to LMC Title 1 §1-903. Subsequently, on September 8, 2008, BID staff issued Administrative Citation #1028 (attachment 5) for failure to comply, citing the multiple violations and their corresponding penalties. Fines are assessed per violation, per day and resulting in a fine of $10,300.00. The property owner did not

[1] The corrective action was to submit plans to the Lafayette Planning Division. Since the subject property is commercial, approval of a design review application is required for exterior modifications. A design review application (DR26-08) was submitted by the property owner on July 9, 2008, over a year later. Although the status of the design review application is not relevant to this assessment hearing, Attachment 8 contains correspondence from the design review application file to provide additional background.

9A2

appeal the Citation and did not pay the fine. On October 27, 2008, BID staff issued a Notice and Demand for Payment (attachment 6). The purpose of this hearing is to finalize the proceeding by adopting a resolution imposing a special assessment in the amount of $11,330.00. (Attachment 1) Authority to impose a special assessment is contained in LMC Chapter 1-9, Administrative Citations. Section 1-911 states the following:

> 1-911 Recovery of fines and administrative charges.
> (b) Liens--Special Assessments. The amount of any unpaid fines and/or administrative charges may be made a lien or special assessment on the real property on which the violation occurred.
> (4) The lien or special assessment shall attach when the officer records a certificate listing unpaid fines and/or administrative charges with the county recorder's office. The certificate shall specify the amount of the lien or special assessment, the street address, legal description, and assessor's parcel number of the parcel on which the lien or special assessment is imposed, and the name and address of the record owner of the parcel. In the event that the lien or special assessment is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified above shall be recorded by the officer. The lien or special assessment may be foreclosed by an action brought by the city for a money judgment. Until the lien or special assessment is discharged, released, or satisfied, interest shall apply at the maximum amount allowed by law.

Notice of this public hearing was mailed to the property owner and posted at the subject property on July 17, 2009 (see Attachment 7).

Recommendation

Conduct public hearing pursuant to Sec. 1-911(3), LMC. Following testimony from the property owner or his representative, the City Council shall consider the matter and may revise, correct, modify or cancel the Finance Department Report. Staff recommends that the Council confirm the Report, approve the special assessment, and direct staff to file the Report with the County Recorder to be placed as a special assessment on the 2009-2010 tax roll.

Attachments

1. City Council Resolution with Finance Department Report.
2. Notice to Comply
3. Notice of Violation
4. Notice of Intent to Issue Administrative Citation
5. Administrative Citation #1028
6. Notice and Demand for Payment
7. Notice of Public Hearing, dated July 17, 2009
8. Correspondence from DR26-08

CERTIFIED AS A TRUE COPY

CLERK OF CITY OF LAFAYETTE, CALIFORNIA

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

In the Matter of:

Confirming the Cost Recovery Report imposed as a special assessment under Chapter 1-9 of the Lafayette Municipal Code on the property located at 284~286 Lafayette Circle owned by the Herbert R. Monroe Trust

Resolution No. 2009-44

RECITALS

A. On February 15, 2007, Contra Costa County Building Inspection Department (BID) staff, on behalf of the City of Lafayette (City), issued to property owner, the Herbert R. Monroe Trust, a Notice to Comply to correct multiple BID and Lafayette Municipal Code (LMC) violations on his property located at 284~286 Lafayette Circle, designated as Assessor's Parcel Number 243-160-012.

B. On April 9, 2007, BID staff mailed to the property owner an advisory letter stating his intent to issue a Notice of Violation for failure to comply with the directives outlined in the Notice to Comply of February 15, 2007.

C. On April 11, 2007, BID staff recorded with the Contra Costa County Recorder's Office a Notice of Violation detailing the outstanding code violations on site.

D. On June 23, 2008, BID staff mailed to the property owner a reminder of the open Code Enforcement investigation involving the work accomplished on his property without the required approvals and building permits. BID staff also indicated they would be issuing a Notice of Intent to Issue Administrative Citation for failure to correct the violations stated in the Notice to Comply of February 15, 2007

E. A Notice of Intent to Issue Administrative Citation was postmarked and sent via USPS Certified Mail on June 27, 2008

F. Administrative Citation #1028 was issue by BID staff on September 8, 2008 citing; construction without required permits or approvals (Building Code Title 3§3-3, §3-303), municipal codes pertaining to Planning Department approvals required (LMC Title 6), and substandard compliance with housing, health, and/or building codes (LMC Title 8 §8-2105).

G. On October 27, 2008, BID staff sent a Notice and Demand for Payment to the property owner, via USPS Certified Mail, for the outstanding fines totaling $10,300.00, which had not been paid within the thirty day time frame as provided by LMC Chapter 1-9, and in consideration that the period for filing a timely appeal had run.

H. In accordance with Chapter 1-9 of the LMC, the City of Lafayette may impose a special assessment against the real property on which the Administrative Citation was issued against.

I. The Finance Department prepared and filed with the City Clerk a cost report indicating the amounts due and owing, and the City Clerk thereafter fixed a time, date and place for hearing the report and protests or objections. A copy of the report is attached as Exhibit A. The City Clerk gave notice to the property owner of the public hearing on the Statement of Expenses in the time, form and manner provided by Section 1-911, LMC.

J. The City Council held a hearing on July 27, 2009 to receive and hear protests or objections to the Statement of Expenses by the Finance Department.

Now therefore, the City Council of the City of Lafayette finds, determines and orders as follows:

1. The Finance Department prepared and filed its Statement of Expenses report with the City Clerk and the City Clerk thereafter fixed the time, date and place for hearing on the report and notice was served on the property owner in the time, form and manner required by law.

2. The City Council received, heard and considered protests to the report of the Finance Department from the property owner, and/or his representative, whose real property is subject to the special assessment for the amount of the fines.

3. The City Council confirms the amount of $10,300.00 contained in the Statement of Expenses and confirms the addition of $250.00 for the fee required by Contra Costa County to record the special assessment for a total amount of $10,550.00 to be imposed on the real property as a special assessment.

4. The assessment shall continue until it is paid. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to levy, collection and enforcement of municipal taxes apply to this special assessment.

This Resolution was passed and adopted at a meeting of the City Council of the City of Lafayette at a meeting held on July 27, 2009, by the following vote:

AYES: Andersson, Anderson, Anduri and Federighi
NOES: None
ABSENT: Tatzin
ABSTAIN: None

APPROVED:

Don Tatzin, Mayor

ATTEST:

Joanne Robbins, City Clerk

LAFAYETTE
SETTLED 1848 — INCORPORATED 1968

CITY COUNCIL

Don Tatzin, Mayor
Brandt Andersson, Vice Mayor
Mike Anderson, Council Member
Carl Anduri, Council Member
Carol Federighi, Council Member

FINANCE DEPARMENT REPORT

To: Joanne Robbins, City Clerk

Date: July 17, 2009

Re: Statement for Cost Recovery - Administrative Citation #1028 for violations at 284~286 Lafayette Circle (Monroe)

On September 8, 2008 Contra Costa County Building Inspection Department (BID) staff, on behalf of the City, issued an Administrative Citation to property owner, the Herbert R. Monroe Trust, for multiple BID and Lafayette Municipal Code (LMC) violations at his property located at 284~286 Lafayette Circle. Pursuant to LMC Chapter 1-9 Administrative Citations, Mr. Monroe was given thirty (30) days to submit payment or appeal the citation. To date, the outstanding fines, totaling $10,300.00, have not been paid, and the period for filing a timely appeal has run. Additionally, a $250.00 charge is being assessed to cover the cost of putting the levy on the 2009-2010 Property Tax Roll. Accordingly, the City is seeking cost recovery by imposing a special assessment against the property in the amount of $10,550.00.

Prior to imposing a special assessment against the property for nonpayment of fines and the associated Tax Roll charge, the City Council must conduct a hearing per LMC Section 1-911. Therefore, would you please fix a time, date and place for a public hearing before the City Council.

Gonzalo Silva, Finance Director

3675 MT. DIABLO BLVD., SUITE 210, LAFAYETTE, CA 94549
TELEPHONE: (925) 284-1968 FAX: (925) 284-3169
http//:www.ci.lafayette.ca.us

Exhibit A

Lamorinda Building
Inspection Office

3685 Mt. Diablo Blvd., Suite 120
Lafayette, California 94549
Phone: (925) 299-0263
FAX (925) 299-0134
www.co.contra-costa.ca.us

Contra
Costa
County

Carlos Baltodano
Director of Building Inspection

February 15, 2007

Herbert R. Monroe TRE
284-286 Lafayette Circle
Lafayette, CA 94549

SITE: 284-286 Lafayette Circle, Lafayette, CA
APN: 243-160-012
RF: 07-00138

NOTICE TO COMPLY

You are hereby notified that this department has observed your property at the above location and determined it to be in violation of the Contra Costa County Ordinance Code and the City of Lafayette Municipal Code for the following reason:

Violation Description and County Ordinance Code Section

1. Construction of an addition to a commercial structure, including electrical, plumbing, and mechanical work, has occurred on the above referenced property without building permits. Adoption of the California Building Code. Contra Costa County Ordinance, section 74-1.002. Building permit required. California Building Code, section 106.1. Adoption of the California Electrical Code. Contra Costa County Ordinance, section 76-12.202. Electrical permit required. Contra Costa County Ordinance, section 76-8.202. Adoption of the California Mechanical Code. Contra Costa County Ordinance, section 710-3.002. Mechanical permit required. California Mechanical Code, section 112.1. Adoption of the California Plumbing Code Contra Costa County Ordinance, Section 78-3.002. Plumbing permit required. California Plumbing Code 103.1.1. City of Lafayette Municipal Code section 1-501, Contra Costa County Provisions Adopted.

   You must clear the above violation by taking the following corrective actions:

Corrective Actions

1. Within fifteen (15) business days from the date of this letter, the following must be submitted to the City of Lafayette Planning Department:

   Prepare a complete set of dimensional drawings showing the existing building and the addition. Plans must, at least, include all electrical, mechanical, and plumbing modifications made in the original building to accommodate the addition, and all building, plumbing, electrical, and mechanical work necessary to construct the addition. Any additional information and details required by the City of Lafayette Planning Department must be provided and submitted no later than five (5) business days from the date of their request.

ATTACHMENT 2

2. Once the City of Lafayette Planning Department has approved the project, submit the approved plans within five (5) business days to the Lamorinda Building Inspection Department for review, approval, and issuance of the appropriate building permits.

An investigation has begun and compliance is required to correct the above violations. **A code enforcement fee shall be charged equal to two times the amount of all permit fees.** Zoning violation clearances require a minimum of a $100 fee. A fee of $25 per trip will be charged until compliance is met. The fees are additive to the building permit and zoning fees.

If you fail to comply with this notice, this office will take one or more of the following actions:

1. **Record this notice on property records**
2. **Refer to County/City Counsel for legal action**
3. **Issue a Citation – Court appearance, penalties and fines**
4. **Notify the Franchise Tax Board (On rental units declared substandard)**
5. **Obtain abatement order – All costs plus administrative fees billed to owner**
6. **Administrative Penalty Procedures – Daily fines for each noted violation**

I may be reached at (925) 299-0116 each business day between 7:30 a.m. and 10:00 a.m., with the exception of the first, third, and fifth Fridays of the month when I am not in the office.

Sincerely,

Greg Wixom
Building Inspector I

RECORDING REQUESTED BY:
Building Inspection Department
651 Pine Street, 4th floor
Martinez CA 94553

RETURN TO:
Building Inspection Department
651 Pine Street 4th floor
Martinez CA 94553

FOR BENEFIT OF COUNTY

CONTRA COSTA Co Recorder Office
STEPHEN L. WEIR, Clerk-Recorder
DOC- 2007-0106283-00
Wednesday, APR 11, 2007 15:50:41
FRE $0.00
Ttl Pd $0.00 Nbr-0003669525
lrc/R9/1-1

NOTICE OF VIOLATION

DATE: April 11, 2007
ADDRESS OF PROPERTY: 284-286 Lafayette Circle, Lafayette, CA
OWNER: Herbert R. Monroe TRE
APN: 243-160-012
REF: RF07-00138

The property described above was inspected by the Contra Costa County Building Inspection Department and is in violation of the County Ordinance Code for the following reasons:

1. **Construction of an addition to a commercial structure, including electrical, plumbing, and mechanical work, occurred on the above referenced property without building permits. Adoption of the California Building Code. Contra Costa County Ordinance, section 74-1.002. Building permit required. California Building Code, section 106.1. Adoption of the California Electrical Code. Contra Costa County Ordinance, section 76-12.202. Electrical permit required. Contra Costa County Ordinance, section 76-8.202. Adoption of the California Mechanical Code. Contra Costa County Ordinance, section 710-3.002. Mechanical permit required. California Mechanical Code, section 112.1. Adoption of the California Plumbing Code Contra Costa County Ordinance, Section 78-3.002. Plumbing permit required. California Plumbing Code 103.1.1. City of Lafayette Municipal Code section 1-501, Contra Costa County Provisions Adopted.**

When the above violations have been properly removed or permitted with inspection approvals by this department, a Notice of Violation Cleared form may be issued for recording. Inquires may be sent to the Building Inspection Department or phone (925) 335-1111 for further information.

Carlos Baltodano, Building Official
Contra Costa County Building Inspection Department

By _____
Greg Wixom, Building Inspector I

ATTACHMENT 3

Lamorinda Building
Inspection Office

3685 Mt. Diablo Blvd., Suite 120
Lafayette, California 94549
Phone: (925) 299-0263
FAX (925) 299-0134
www.co.contra-costa.ca.us

Contra
Costa
County

Carlos Baltodano
Director of Building Inspection

June 27, 2008

NOTICE OF INTENT TO ISSUE ADMINISTRATIVE CITIATION

(Lafayette Municipal Code, Title 1, section 1-903)

Herbert R. Monroe TRE
1088 Vista Bella
Lafayette, CA 94549

Site: 284-286 Lafayette Circle, Lafayette, CA
APN: 243-160-012
REF: RF07-00138

Our records indicate that you are the owner or responsible authority for the property located at 284-286 Lafayette Circle in Lafayette, CA.

An inspection of that property occurred on or before Monday, June 23, 2008. The following violations of the Lafayette Municipal Code, Title 3, *Building Regulations*, section *3-3*, *Uniform Codes*, subsection *3-303*, *Adoption of provisions of the Ordinance Code of Contra Costa County* (2007 California Building Code adopted)

Construction of an addition to, and alteration of, a commercial building without required building permits

Title 6, *Planning and land use*

City of Lafayette (Planning Department) approvals required before construction

Title 8, *Public Welfare, Morals, and Safety*, section 8-2105, *Property Violations*, were observed:

(a) General Property Violations:
(1) Substandard compliance with housing, health, and/or building codes

ATTACHMENT 4

The City of Lafayette hereby demands that actions be taken to correct the violations not later than 4:00 p.m. on Thursday, July 10, 2008.

If the violations have not been corrected by that date, the city shall, pursuant to Lafayette Municipal Code section 1-903, issue an administrative citation to the owner-of-record, enjoining each person, persons, corporations, companies, or entities having responsibility, control, or authority over said property.

The administrative citation carries a fine of $100 for the first day the violation is permitted to continue without correction, $200 for the second day, and $500 for each subsequent day thereafter until the violation is corrected. Failure to comply with this directive could, therefore, result in a fine of $10,300.

The City of Lafayette may take additional action to compel compliance with the law, including referring the case to the City Attorney for legal action. The property owner will be responsible for all costs and fees associated with this code enforcement investigation, including administrative fees and charges and court costs. The costs will be billed to the property owner by *Invoice and Demand for Payment*, or pursuant to Lafayette Municipal Code section 1-911, *Recovery of fines and administrative charges*.

All questions regarding this notice should be directed to the undersigned at the Lamorinda Building Inspection Department, (925) 299-0116, Monday through Thursday, between the hours of 8:30 a.m. and 4:30 p.m.

Greg Wixom
Building Inspector I
Code Enforcement Officer

LAFAYETTE
SETTLED 1848 — INCORPORATED 1963

CITY OF LAFAYETTE
ADMINISTRATIVE CITATION

CITATION NO: 1028 **DATE OF ISSUE:** 090808

☒ 1st Fine $100 ☒ 2nd Fine $200 ☒ 3rd Fine $500

Fines Are Assessed Per Violation, Per Day

LAST	FIRST	MIDDLE	RELATION TO PROPERTY
MONROE	HERBERT	R. TRE	☒ Owner ☐ Tenant ☐ Manager ☐ Agent ☐ Other
MAILING ADDRESS			**BUSINESS NAME**
1088 VISTA BELLA LAFAYETTE CA 94549			"HAIRITAGE" - OFFICES
VIOLATION ADDRESS	243-160-012 APN		**PHONE NUMBER**
284-286 LAFAYETTE CIRCLE LAFAYETTE			284-4771

BUILDING / MUNICIPAL CODE SECTION	VIOLATION DESCRIPTION
TITLE 3 § 3-3 § 3-303	ADOPTION OF CONTRA COSTA COUNTY CODES - CONSTRUCTION WITHOUT REQUIRED PERMITS OR APPROVALS
TITLE 6	PLANNING DEPT. APPROVALS REQUIRED
TITLE 8 § 8-2105	SUBSTANDARD COMPLIANCE WITH HOUSING HEALTH AND/OR BUILDING CODES
	ADDITION TO COMMERCIAL BUILDING WITHOUT PERMITS

☒ **Planning Services Division**
3675 Mt Diablo Boulevard
Suite # 210
Lafayette, CA 94549
(925) 299-3207

☒ **Lamorinda Building Inspection**
3685 Mt Diablo Boulevard
Suite # 120
Lafayette, CA 94549
(925) 299-0116

AN OFFICIAL REPRESENTING THE CITY OF LAFAYETTE HAS OBSERVED MUNICIPAL CODE AND/OR BUILDING CODE VIOLATION(S) OCCURRING, OR THAT HAVE OCCURRED, ON THE PROPERTY IDENTIFIED ABOVE. FAILURE TO CORRECT THE VIOLATION(S) HAVE RESULTED IN THE ISSUANCE OF THIS CITATION (LMC CHAPTERS 1-9) AND THE ASSESSMENT OF ADMINISTRATIVE PENALTIES (LMC 1-302 AND 1-308). THE PROPERTY OWNER IS HEREBY NOTICED TO IMMEDIATELY CORRECT THE VIOLATION(S) CITED, AND PROHIBITED FROM ALLOWING THE CONTINUATION OR REPETITION OF THE VIOLATION(S).

SIGNATURE OF ISSUING OFFICIAL	PRINT NAME	DATE
BUILDING INSPECTOR	GREG WIXOM	090808

See reverse side for payment instructions and important information.

WHITE: SITE / RECIPIENT PINK: FINANCE GREEN: FILE YELLOW: MAIL

Business Forms NEBS CUSTOM printing service 1-800-Sebs-nebs NEBS Inc. Groton, MA 01471 www.nebs.com

ATTACHMENT 5

Lamorinda Building
Inspection Office

3685 Mt. Diablo Blvd., Suite 120
Lafayette, California 94549
Phone: (925) 299-0263
FAX (925) 299-0134
www.co.contra-costa.ca.us

Contra
Costa
County

Carlos Baltodano
Director of Building Inspection

October 27, 2008

Herbert R. Monroe TRE
1088 Vista Bella
Lafayette, CA 94549

Property Address:	284 and 286 Lafayette Circle, Lafayette, CA
APN:	185-103-017
REF:	RF07-00138

NOTICE AND DEMAND FOR PAYMENT

On or about February 15, 2007, the City of Lafayette gave notice to the Herbert R. Monroe Trust that conditions of the property and structure located at 284 and 286 Lafayette Circle in the City of Lafayette violated one or more sections of the Lafayette Municipal Code. Several letters were sent to Herbert R. Monroe Trust advising that administrative penalties would accrue if actions to correct the violations did not occur without delay. Failure to comply with written notices and directives from the City Of Lafayette caused issuance of citation number 1028, effective September 8, 2008, to property owner-of-record Herbert R. Monroe Trust. The period for filing a timely appeal having run, the **City of Lafayette now makes demand for payment in the amount of $10,300 (ten thousand-three hundred dollars).**

Payment must be sent to the City of Lafayette, 3675 Mt. Diablo Boulevard, Suite 210, Lafayette, California, 94549. The citation number and subject property address should be referenced on checks or money orders. Payment can be made in person. Personal checks, cashiers checks, and credit cards are accepted. Office hours are Monday through Friday, 12:00 p.m. to 5:00 p.m. Failure to pay the fine will result in late fees of 10%. *

If additional information is required, please contact the undersigned, Monday through Thursday, at (925) 299-0116. I'm in the office between the hours of 8:30 a.m. and 4:30 p.m.

Greg Wixom
Building Inspector
Code Enforcement Officer

* **Payment of the fine does not excuse the violation. The City of Lafayette demands compliance with applicable statutes, codes, and rules. Continued failure to comply will result in the issuance of a citation after January 1, 2009. Outstanding fees and costs will be incorporated into parcel taxes as a special assessment through the Office of the County Assessor.**

LAFAYETTE
SETTLED 1848 — INCORPORATED 1968

CITY COUNCIL

Don Tatzin, Mayor
Brandt Andersson, Vice Mayor
Mike Anderson, Council Member
Carl Anduri, Council Member
Carol Federighi, Council Member

July 17, 2009

Herbert R. Monroe Trust
1088 Vista Bella
Lafayette, CA 94549-2537

RE: Public Hearing on Resolution to Impose Special Assessment
284~286 Lafayette Circle (APN 243-160-012)

Notice is hereby given that the City Council will hold a public hearing at the time, date and place as follows:

Date: Monday, July 27, 2009
Time: 7:00 p.m.
Place: Council Chambers
Manzanita Room, Lafayette Community Center
500 St. Mary's Road, Lafayette, California

The purpose of the hearing is for the City Council to receive a Finance Department Report, Statement for Cost Recovery (Statement), a copy of which is attached, related to the failure to pay fines associated with Administrative Citation # 1028, and to hear and receive protests or objections to the Statement.

You are advised that the property which is the subject of the Statement is located at 284~286 Lafayette Circle and designated as Assessor's Parcel Number 243-160-012. You may file written correspondence with the City Clerk and you may appear and present any oral testimony at the public hearing regarding the Statement.

At the conclusion of the hearing, the City Council may revise, correct, modify or cancel the Statement and, excepting a cancellation of the Statement, will confirm the Statement by resolution. If the City Council confirms the Statement, the costs will become a lien and a special assessment against the real property.

Mark Robbins, Code Enforcement Officer
For: Joanne Robbins, City Clerk

3675 MT. DIABLO BLVD., SUITE 210, LAFAYETTE, CA 94549
TELEPHONE: (925) 284-1968 FAX: (925) 284-3169
http//:www.ci.lafayette.ca.us

ATTACHMENT 7

LAFAYETTE
SETTLED 1848 — INCORPORATED 1968

CITY COUNCIL
Mike Anderson, Mayor
Don Tatzin, Vice Mayor
Brandt Andersson, Council Member
Carl Anduri, Council Member
Carol Federighi, Council Member

August 8, 2008

Herbert Monroe
1088 Vista Bella
Lafayette, CA 94549

RE: **DR26-08 HERBERT MONROE (APPLICANT & OWNER), SRB ZONING:** Request for retroactive Design Review pursuant to Section 6-973 of the Lafayette Municipal Code to construct a ~373 sq. ft. addition with a maximum ridge height of 8'-6" to an existing beauty shop located at 286 Lafayette Circle. APN 243-160-012

Dear Mr. Monroe,

I have had the opportunity to review your project plans, the project file and history. Your application is missing many items and has been deemed incomplete. Please submit the following information:

1. The standard application form is missing parcel size, existing gross floor area (prior to addition), and proposed gross floor area (after addition).
2. Provide a written response to the Design Review Findings enclosed, before and after photos of the building and addition and parking calculations for the building. *I've attached a memo to explain how to calculate parking.*
3. Revise the plot plans to clearly illustrate the location and dimensions of all parking spaces and the property line.
4. The SRB zoning district requires that a minimum of 20% of the lot area shall be dedicated and used as open space. To count as open space the area shall be open and unobstructed to the sky and have a minimum dimension no smaller than 10 at any place. Revise the site plan to illustrate the previous and current open space on site.
5. It appears the existing building was non conforming with regard to the off street parking standards. If that is true your application will require a variance to future reduce the parking below what is required. In that event you will need to contact me directly so that we can meet and discuss to the review process, required materials and possible fees.

Please review this letter and contact me at (925) 299-3257 or with any questions or gwarmoth@ci.lafayette.ca.us

Sincerely,

Glenda Warmoth

Glenda Warmoth
Assistant Planner

3675 MT. DIABLO BLVD., SUITE 210, LAFAYETTE, CA 94549
TELEPHONE: (925) 284-1968 FAX: (925) 28
http//:www.ci.lafayette.ca.us

ATTACHMENT 8

Warmoth, Glenda

From: Srivatsa, Niroop
Sent: Wednesday, October 29, 2008 9:26 AM
To: 'Monica Johnson'
Cc: Sinnette, Christine; David Bowie; Warmoth, Glenda
Subject: RE: Greg Wixom - Building Inspector 10-27-08

Hi David: A letter deeming the application incomplete was sent to the applicant by project planner Glenda Warmoth on August 8th and no response has been received to date. If Glenda does not receive the information requested by November 7th – two months after the letter was sent - we will proceed with code enforcement.

Niroop K. Srivatsa
City of Lafayette
925.299.3206
925.284.1122 (fax)
nsrivatsa@lovelafayette.org
Think Green! Please consider the environment before printing this email.

From: Monica Johnson [mailto:monica@bblandlaw.com]
Sent: Tuesday, October 28, 2008 5:05 PM
To: Srivatsa, Niroop
Cc: Sinnette, Christine; David Bowie
Subject: Greg Wixom - Building Inspector 10-27-08

LAW OFFICE OF DAVID J. BOWIE
Attorney at Law
2255 CONTRA COSTA BLVD., SUITE 305
PLEASANT HILL, CA 94523

DAVID J. BOWIE

Telephone (925) 939-5300
Facsimile (925) 609-9670
Dave@bblandlaw.com

925 299-0134

October 28, 2008

Greg Wixom
Building Inspector
Code Enforcement Officer
3685 Mt. Diablo Blvd, Suite 120
Lafayette, CA 94549

Re: 284-286 Lafayette Circle, APN 185-103-017
Ref: RF 07-00138

Dear Greg:

I have reference of our telephone conversation of this afternoon regarding the Notice and

Demand for payment sent to the attention of Herbert R. Monroe, the owner of the above-referenced real property. As I mentioned, I am working with Mr. Monroe to resolve this situation; as we both recognize, the matter is one which must be reviewed in detail by the City Planning Department. I have previously spoken with both Christine Sinnette and Niroop Srivatsa regarding this matter; I will continue to work toward a resolution with them.

Please contact me regarding any other matters involving this particular property. Thank you for your courtesy and cooperation.

Very truly yours,

David J. Bowie

Cc: Herb Monroe
Niroop Srivatsa
Christine Sinnette

LAW OFFICE OF DAVID J. BOWIE
Attorney at Law
2255 CONTRA COSTA BLVD., SUITE 305
PLEASANT HILL, CA 94523

RECEIVED
DEC 0 3 2008
CITY OF LAFAYETTE
PLANNING DEPT.

DAVID J. BOWIE

Telephone (925) 939-5300
Facsimile (925) 609-9670
Dave@bblandlaw.com

December 2, 2008

Glenda Warmoth
City of Lafayette
3685 Mt. Diablo Blvd, Suite 120
Lafayette, CA 94549

Re: 284-286 Lafayette Circle, APN 185-103-017
Ref: RF 07-00138

Dear Glenda:

Please be advised that Herb Monroe has retained Howard Lassiter as an architect to prepare building code compliant plans for his Lafayette project. When you and I last spoke, we reviewed the deficiencies in the current set of plans and the probable requirements to satisfy planning issues. Those appeared generally to be surmountable since the amount of additional parking required would be less than 20% and a variance could be granted and since open-space appeared somewhat irrelevant in the context of this very small building. As is usually the case, the architect's involvement has pointed out some building code issues which we also will need to address. The result is that it will be a bit longer before I have plans which are truly complete in which I can present to complete the application.

I did want to let you know that matters are progressing. I will be in touch as soon as possible.

Very truly yours,

David J. Bowie

Cc: Herb Monroe

BEFORE THE CITY COUNCIL OF LAFAYETTE

In the Matter of:

Amending the Rules of Proceedings For the Conduct Of Council Meetings

RESOLUTION NO. 2007-049

On November 14, 1994, the City Council considered future amendment of its "Rules of Proceedings for the Conduct of Council Meetings as amended November 8, 1993" in order to conform to proposed Ordinance No. 435, which would change the time of meetings, and in order to change the order of the City Council agenda.

On November 28, 1994, the City Council adopted Ordinance No. 435 which became effective December 28, 1994. Ordinance No. 435 amended Municipal Code section 2-101 to change the time of Council meetings.

On March 27, 1995 the City Council adopted Resolution No. 17-95 amending the "Rules of Proceedings for the Conduct of Council Meetings.

NOW, THEREFORE, the City Council of the City of Lafayette resolves that:

1. The "Rules of Proceedings for the Conduct of Council Meetings" are amended as reflected in Exhibit "A".

PASSED and ADOPTED by the City Council of the City of Lafayette at its regular meeting held on December 10, 2007 by the following vote:

AYES: Anderson, Andersson, Anduri and Tatzin

NOES: None

ABSTAIN: None

ABSENT: Federighi

APPROVED:

Mike Anderson, Mayor

ATTEST:

Joanne Robbins, City Clerk

DEC 13 2007

RULES OF PROCEEDINGS FOR THE CONDUCT OF COUNCIL MEETINGS AS AMENDED DECEMBER 10, 2007

In order to provide for continuity of responsibility and to provide sufficient time and opportunity for full consideration and public discussion of important issues which the City Council must review and decide, it is necessary to adopt the following rules covering election of Council Officers and the conduct of meetings

I. Election of Council Officers.

The term of office of the Mayor or Vice-Mayor is one year. The Council may remove the Mayor or Vice-Mayor before the expiration of the one-year term.

The election or removal of Mayor or Vice-Mayor shall require three affirmative votes. A Councilmember may not serve two consecutive terms in the office of Mayor or Vice-Mayor.

The Council shall consider the election of a Mayor and a Vice-Mayor for one year terms at the first regular Council Meeting held in December; or at the first regular Council Meeting after which the office of Mayor or Vice-Mayor becomes vacant for any reason, including resignation, death or removal.

II. Rules for the Conduct of Meetings.

A. Agenda.

1. Format. The normal arrangement of agenda items for special meetings called for the purpose of conducting a closed session and for regular meetings shall be as follows:

A special meeting shall be noticed for the purpose of conducting a closed session and after the closed session, the Council shall hold an open and public session as required by the Brown Act. (Government Code sections 54956.8, 54957.1 and 54957.7.

7:00 p.m. at the Lafayette Community Center – Regular Meetings
Call to Order
Roll Call
Pledge of Allegiance
Adoption of Agenda
Report from Closed Session
Public Comments
Presentations
Old Business
Staff Reports

Public Hearings
Consent Calendar
Council/Commission Reports
Written Communications

Adjournment

2. Preparation. The City Clerk shall prepare and deliver to each Councilmember and the City Attorney an agenda not later that the Friday preceding each regular meeting (72 hours before a regular meeting). Items to be included on the agenda must be submitted to the City Clerk not later than 5:00 p.m. on the Monday preceding the regular meeting. The agenda shall show the estimated time which the City Clerk anticipates will be required for each item or group of items submitted. These times are estimates only.

In order to expedite the conduct of the meetings the Mayor and/or the City Manager may vary the order in which certain items are listed on the agenda.

Items which are held over from a previous meeting due to lack of time to complete them may be placed in priority positions to ensure completion, notwithstanding the order of items listed in Section II.A.1.

The City Clerk shall mail a copy of the tentative agenda to every person who has requested one and has paid an annual fee as prescribed by the City Council, to interested news agencies and other government agencies who have requested it.

3. Public Hearings. The public hearing section of the agenda shall be set to be heard at the specified hour. Public hearings may not be shifted to an earlier time than listed on the agenda.

4. Adoption of Agenda. The agenda is adopted as final subject to changes as limited by the Brown Act.

B. Public Participation.

1. Recognition. No person shall address the Council without permission of the presiding officer, or a majority of the quorum, or as otherwise required by law.

2. Addressing the City Council. A person addressing the Council shall do so at the place designated by the presiding officer and may begin by offering his/her name and address both orally and in writing.

3. Limits. Each speaker shall limit his/her remarks to three minutes, except as otherwise specifically provided for in these rules or except as such time is extended by the presiding officer with the consent of a majority.

4. Questions. Following each speaker's remarks, each Councilmember shall be given the opportunity to comment further and to address questions to the speaker.

5. Written Communications to be Included in the Agenda Packet. Written communications from the public to be included in the agenda packet shall be submitted to the City Clerk no later than 5:00 p.m. on the Monday preceding the regular meeting.

6. Other Written Remarks Regarding an Agenda Item. A member of the public may submit written remarks concerning any item on the agenda. These remarks shall be submitted to the City Clerk no later than noon of the day of the public meeting. The City Clerk

shall distribute copies at the meeting to the members of the City Council, the City Manager, and the City Attorney. At least three copies shall be available for public inspection.

7. Disorderly Behavior and Disrupting a meeting.

a. No person may disrupt a meeting by making loud noise or through other disorderly behavior.

b. The presiding officer shall warn a person who disrupts a meeting that such behavior is forbidden and request a curtailment for the purpose of maintaining order and decorum. If the behavior continues, the presiding officer may punish the person for disorderly behavior at the meeting by ejecting him or her from the meeting. The person shall be barred from the remainder of the meeting unless permission to continue is granted by the majority vote of the members present. Government Code section 36813.

c. If a person or group of persons willfully disrupts a meeting such that order cannot be restored by removal of individuals willfully disrupting the meeting, the presiding officer may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered. Members of the press and other news media, except disruptive members, shall be allowed to attend. A person or persons not responsible for the willful disturbance may be readmitted by a majority vote of the member present. Govt. Code section 54957.9

d. The presiding officer may refer the matter of disruption of the public meeting to the District Attorney for possible criminal prosecution under the provisions of Penal Code section 403 "Disturbance of Public Assembly or Meeting: or other applicable law.

C. Hearing Procedures.

1. Presentations at public hearings shall be in the following order and are subject to the indicated maximum estimated time limitations unless a majority of the Councilmembers present consent to an extension:

a. the staff presentation may not exceed 15 minutes

b. the presentation by proponents may not exceed 10 minutes;

c. the presentation by the opponents may not exceed three minutes each;

d. the rebuttal by the proponents may not exceed five minutes;

e. the presiding officer shall recognize other persons as required by law;

g. following the public portion of the hearing, the presiding officer shall declare the public portion of the hearing closed and the matter is then before the City Council for the Council portion of the hearing. When the Council discussion has been concluded, the Council shall make its decision.

D. Rules of Order.

1. Conduct of the Council Meetings. Robert's Rules of Order shall be the prescribed manner of the conduct of City Council meetings, except as otherwise pre-empted by law and these rules.

2. Adoption Procedure. All matters may be decided by a voice vote unless a roll call vote is requested by a Councilmember or required by the Brown Act. On all matters for which a voice vote is authorized, the presiding officer may ask for "objections to the questions"? If no objection is expressed, the minutes shall record a unanimous vote in favor. If any Councilmember objects to the procedure, a roll call vote shall be called in the normal manner.

3. Division of the Question. If a matter properly put before the Council contains two or more separable propositions, the proposition shall not be divided unless a Councilmember request that the matter be separated into separate propositions and voted on separarely.

4. Reconsideration of agenda item at same meeting. If the Council has acted on an item on an agenda, the Council may reconsider its action at the same meeting under the following circumstances:

a. the Council determines by a 4/5 vote of its members, or, if less than 4/5 of the members are present, by a unanimous vote of those member present, that there is a need to reconsider the item and

b. the Council makes a finding that reconsideration will not unreasonably interfere with the rights or interests of a person who was present when the item was first considered or acted upon but is absent at the time of reconsideration.

E. Adjournment.

Council meetings will adjourn at or before 11:00 p.m. except that a majority of the Councilmembers present may vote to continue after 11:00 p.m. to hear any matter.

F. Amendment of Rules.

These rules shall be amended by resolution..